### FAA Southwest Region Airports Division 2005 Partnering Conference March 9, 2005

#### Changes to 49 CFR Part 24

Uniform Relocation Assistance and Real Property
Acquisition for Federal and Federally-Assisted Programs

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#### **Objectives**

- Identify most significant changes.
- Why these changes were made.
- How these changes affect airport projects.



#### **Additional Information**

- □FAA Airports @ www.faa.gov/arp/environmental/land
  - Updated Order and Advisory Circular, Q&A's
- □FHWA @ www.fhwa.dot.gov/realestate/ua/index.htm
  - Q&A's, Training Information
- □International Right-of-Way Association @ www.irwaonline.org
  - Training Seminars, Conferences



# Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA)

- URA Purpose *(42 USC 4601 et seq)* 
  - □ Treat property owners fairly and consistently.
  - □ Treat persons displaced from their homes and businesses fairly, equitably, consistently.
  - **Minimize litigation.**
  - □ Act efficiently and in a cost-effective
  - A-4 manner.



#### **49 CFR Part 24**

- Subpart A General, § 24.2 Definitions.
- Subpart B Real Property Appraisal & Acquisition
- Subpart C -- General Relocation.
- Subpart D Moving Cost.
- Subpart E Replacement Housing.
- Subpart F -- Mobile Homes.





#### **Effective Date of Changes**

- Final rule published -- January 4, 2005.
- Rule effective -- February 3, 2005.
- FAA guidance updated.
  - Updated FAA Order 5100.37B March 05
  - Updated FAA AC 150/5100-17 June 05
  - Available at <u>www.faa.gov/arp/environmental/land</u>



# 49 CFR Part 24 Subpart A

**Definitions** 



## Subpart A Changes § 24.2(a) Definitions



- (11) Dwelling site.
- (14) Household income.
- (17) Mobile home.
- (33) Waiver Valuation.



## Subpart A Changes § 24.2(a) Definitions



- (6) Comparable replacement dwelling.
- (8) Decent, safe, and sanitary.
- (15) Initiation of negotiation (ION).
- (23) Salvage value.
- (29) Unlawful occupant.
- (30) Utility costs.



# 49 CFR Part 24 Subpart B

Appraisal, Appraisal Review, and Waiver Valuations



#### **Key Changes**

- Appraisal waiver.
- Appraisal and appraisal review requirements.
- Qualifications.
- Responsibilities.



# Is an Appraisal Required?

- § 24.102(c)(2) Appraisal not required if:
- Owner is donating property.
- Agency determines the appraisal problem is:
  - □ Uncomplicated.
  - Low value.

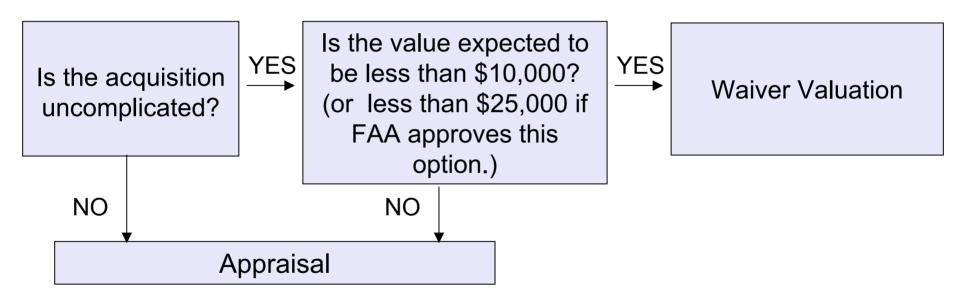


## Appraisal Waiver Changes.

- Low value is defined as up to \$10,000:
  - □ Increased from \$2,500.
- Also option now available for up to \$25,000:
  - FAA must approve.
  - Owner must be offered option for appraisal.
- Sponsor Must Prepare a waiver valuation.



### Appraisal or Waiver Valuation?





#### **Waiver Valuation Requirements**

- Prepared by knowledgeable person.
- Not an appraisal.
- Review not required.
- Owner accompaniment not required.
- Sponsor responsible for:
  - Basis for preparing.
  - □ Establishing just compensation amount.



#### **Appraisal Assignment**

- Sponsor is to participate in:
  - □ Defining the appraisal problem.
  - □ Developing the scope of work.
- Appraisal must identify personal property.
  - □ Personal Property § 24.103(a)(2)(i).
  - □ Real Property Appendix A § 24.103(a)(i).



#### **Appraisal Scope of Work**

- Should address:
  - □ Purpose/function of appraisal (Appraise FMV)
  - □ Definition of estate to be appraised.
  - □ Appraisal Requirements under 49 CFR 24
    - Owner accompaniment, 5yr sales history, etc
  - □ Assumptions and limiting conditions.
  - May include:
    - Data search parameters.
    - Analysis approaches.
  - □ Details commensurate with complexity/value.
  - May be updated as needed.



#### **Appraisal Review**

- Review appraiser responsibilities:
  - □ Assure all appraisal requirements are met.
  - Meets definition of appraisal in § 24.2(a)(3).
- Review appraiser actions:
  - □ Review report must state review findings that:
    - Appraisal is recommended.
    - Appraisal is accepted (meets all requirements).
    - Not accepted. (Including reason for rejection).
  - If necessary, may prepare an independent valuation that meets requirements (per § 24.103).



# 49 CFR Part 24 Subpart B

Offers, Negotiations, and Settlements



#### **Key Changes**

- **Voluntary Transactions Offers.**
- Administrative settlements.
- Conflict of interest.



## Voluntary Transactions 49 CFR 24.101(b) Tenant Relocation & Contacting Owners

- Tenant relocation eligibility trigger: Initiation of Negotiation is acceptance of sales agreement.
- Notices and offers to owner must be in writing.



#### Conflict of Interest 49 CFR 24.102(n)

- Appraisers, review appraisers, or waiver valuation preparers:
  - □ Shall not have any interest in property.
  - □ Shall not be subject to influence or coercion regarding valuation.
  - May be authorized to act as a negotiator where valuation role is for acquisitions <\$10,000.</p>





### New Conflict of Interest Restriction @ 49 CFR 24.102(n)(2)

- Negotiator (i.e. Person making the offer) cannot supervise or formally evaluate:
  - □ Appraisers.
  - □ Review appraisers.
  - □ Persons performing waiver valuations.
- FAA may waive for hardship.



# 49 CFR Part 24 Subpart C

General Relocation Requirements



#### **Key Changes**

- Relocation planning for displaced businesses.
- Advisory services.
- No waiver of benefits allowed.



#### Relocation Planning Project Development Stage 49 CFR 24.204(a)(4)

#### **Relocation Planning must:**

- Indicate Availability of replacement business sites
- Discuss impacts of any shortage
- Consider complexity and length of moving process in developing lead time estimate.
- Discuss displacement impact on small financially constrained businesses (e.g. Mom & Pop, Neighborhood dependent business)
- Secondary Sources Allowed to Survey Needs.



#### Relocation Planning Acquisition Stage (prior to offer) 49 CFR 24.204(c)(2)(I)

- Personal interview with displaced business required to determine:
  - □ Replacement Site requirements.
  - Need for Outside specialists.
  - □ Personalty/realty issues.
  - □ Time required to vacate.
  - □ Site availability.
  - Advance payment needs.



### New Advisory Services – Residential

- Decent, safe, and sanitary standard relies on local codes.
- If displaced from or moving to governmentassisted housing, advise that the size/room limits of that program apply.
- For persons eligible, must advise that government housing assistance exceeds 42month URA rental assistance.
- Transportation offered to <u>all</u> displaced persons.



## No Waiver of Relocation Assistance or Benefits

 § 24.207(f) No soliciting waivers of relocation assistance or benefits.



#### **Expenditure of Payments**

 § 24.207(g) Expenditure of relocation funds by displacee does not constitute Federal financial assistance.



# 49 CFR Part 24 Subpart D

Moving Costs and Related Expenses



#### Major Changes

- Subpart reorganized
- Searching expenses increased
- "New" eligible nonresidential expenses.
- New personal property only moves.
- Calculating actual direct loss.
- Low value/high bulk items.





#### Reorganized Subpart



<sup>\*</sup>No longer subject to a\$10,000 re-establishment cap.





### Non-Residential Search Expense 49 CFR 24.301(g)(17)

- Limit Raised to \$2500
- Reimburse Owner or Professionals' time spent,
  - Obtaining permits and attending hearings.
  - Negotiating the purchase or lease of replacement site.





### "Related Eligible Expense" 24.303 – (Formerly Under Reestablishment Expense)

- Actual, reasonable, and necessary cost for:
  - □ Utility connection from right of way to replacement building (Not related to personal property).
  - Professional services prior to purchase/lease to determine suitability of replacement site:
    - Soil testing, feasibility, and marketing studies to determine site suitability.
  - Impact fees and one-time assessments for



### Reestablishment Expense 24.304 – Still subject to \$10,000 Cap

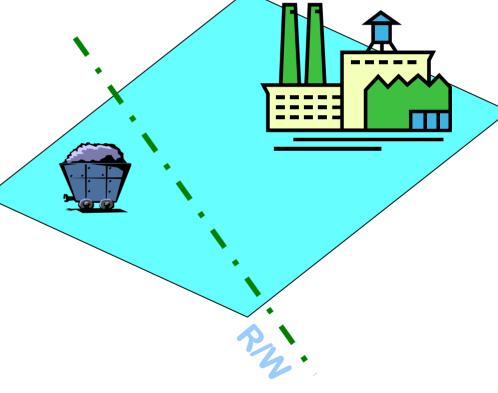
- § 24.304 Actual, reasonable, and necessary costs for:
  - □ Repairs or improvements required by Federal, state, or local law, code, or ordinance.
  - Modifications to the replacement property to accommodate the business operation or make the replacement structures suitable for conducting business.
  - □ Construction and installation costs for exterior signing to advertise the business.
  - Redecoration or replacement of soiled or worn surfaces, such as paint, paneling, or carpeting.
  - Licenses, fees, and permits when not paid as a moving expense.
  - Advertisement of replacement location.





# Moves of Personal Property Only

New § 24.301(e) covers situations in which the main business or dwelling is not required to move but the owner's or tenant's "stuff" is.





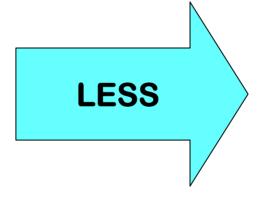


## **Actual Direct Loss**

§ 24.301(g)(14) Payment is the lesser of:

(i) Market value in place "as is."







or

(ii) Estimated cost to move and reconnect "as is."





Low Value/High Bulk

§ 24.301(g)(18). This is a new addition to the list of eligible moving expenses.

Stockpiled sand, gravel, and similar items are examples listed in Appendix A.

Pay the lesser of ...











# 49 CFR Part 24 Subpart E

Replacement Housing
Payments



## **Key Changes**

- Comparability determination.
- Base Monthly Rent for Low Income Households.
- Replacement Housing Payments.
  - Cost of Comparable No List Price Adjustments
  - □ 180-day Owner that Rents
  - Downpayments
  - □ Subsequent Occupants



# Comparable Replacement Dwelling

- Slightly revised definition in § 24.2(a)(6):
  - □ Removed "style of living" phrase.
  - □ Reason functionally equivalent, but not a "twin".



## Base Monthly Rent for Low Income Households?

49 CFR 24.402(b)(2)(ii)

- Base Monthly Rent is the lesser of Actual Rent or 30% of monthly household income for "Low Income" Households.
- Use 30% of monthly household income ONLY when tenants and occupants are considered "low income" by the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Programs.



### **Finding Low Income Limits**

http://www.fhwa.dot.gov/realestate/index.htm



#### Real Estate Topics of Special Interest

. GIS in Transportation

New Job Opportunities New! 1/12/05

Real Estate Acquisition Guide for Local Public Agencies

The Office of Real Estate Services is seeking applicants for Realty Specialist positions at the GS 12.

13, and 14 grade levels. For more information, go to http://www.fhwa.dot.gov/vacancy/roads.htm

- · National Business Relocation Study
- Real Estate Exchange (Discussion Forum)
- Guidance on Hardship Acquisition and Condemnation
- European Right-Of-Way And Utilities Best Practices

- Uniform Act Web Course
- · Right-of-Way and Utilities Pilot ojects
- Low Income Calculations
- Final Rule: 49 CFR Part 24
- 2004 Right-of-Way awards
- FHWA Right-of-Way Domestic Scans
- Federally Mandated Exclusions From Income

**HEP Funding Programs** 

Access is available on the FHWA Realty

homepage.



## Cost of Comparable Dwelling § 24.403(a)(1)

Adjustment of asking price no longer necessary or allowed.

Former FAA requirement no longer applicable.





## Payment Options

#### § 24.401(f) 180-day owner who rents:

Eligible for Purchase RHP

\$19,500

**Market Rental Computation** 

\$12,500

**Prior Limit** 

\$5,250



NEW PAYMENT LIMIT

NTE Eligible Purchase Price Differential



## **Payment Options**

## § 24.402(c) 90-day Tenant Downpayment:

Eligible for Rental Assistance

\$12,000

Downpayment 0n \$50,000 Mobile Home

\$12,000

Prior Limit
@ 20%
Required
\$10,000





### Housing of Last Resort, Subsequent Occupants

Less than 90 day occupants (Subsequent Occupants) may now receive "rent to rent" payment.

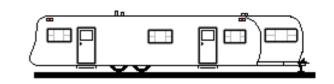
FHWA is monitoring this and will issue Q&A on the regulatory change and on the use of "Rent Loss Agreements" to preclude Subsequent Occupants.



# 49 CFR Part 24 Subpart F

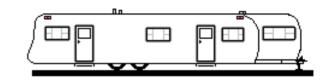
Mobile Homes





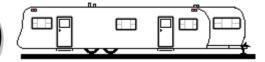
- New definition.
- Reorganization.
- Early payment eligibility determinations.
- Payment options.

## Reorganization



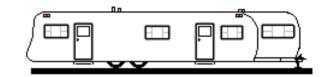


## Reorganization (cont.)



- Revised § 24.502 covers:
  - □(a) Eligibility for 180-day owner occupants.
  - □ (b) Replacement housing payments.
  - □(c) Rental assistance.
  - □(d) Mobile home as personal property.
- Revised § 24.503 covers:
  - □ Eligibility for 90-day occupants and tenants.





- § 24.2(a)(17) Mobile home.
  The term mobile home includes manufactured homes and recreational vehicles used as residences.
- Definition was added to clarify what is recognized by HUD for its programs.

#### **Mobile Homes**



Pre-1976 Mobile





**Manufactured** 



**Recreational Vehicle** 





- Basic to mobile home situations:
  - Is the mobile home being acquired as real or personal property?
  - □ If personal property, is the mobile home:
    - Able to be moved?
    - Able to be DSS?
    - Are comparable replacement sites available prior to displacement?





- § 24.502(c) permits purchase of conventional dwelling with combined payment eligibility.
  - i.e. Housing supplement for mobile home plus rental supplement for site applied at purchase of conventional replacement dwelling.
- Limited to \$22,500 unless last resort applies.

## Changes to 49 CFR Part 24

That's ALL of Them!
Thank you.

Any questions?

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#### MARK YOUR CALENDARS



IRWA 2005 Uniform Act Seminar
November 7- 9, 2005
Hilton Anaheim
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www.irwaonline.org/news\_events/meet\_events/2005-Uniform-Act-Symposium.cfm